

ESTTA Tracking number: **ESTTA276876**

Filing date: **04/08/2009**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

## Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

### Opposer Information

Name	Borghese Trademarks Inc.
Granted to Date of previous extension	05/02/2009
Address	12th and Orange Street One Commerce Center, Ste. 713 Wilmington, DE 19801 UNITED STATES
Attorney information	Stephen L. Baker Baker and Rannells PA 575 Route 28 Ste. 102 Raritan, NJ 08869 UNITED STATES officeactions@br-tmlaw.com, k.hnasko@br-tmlaw.com, m.selinka@br-tmlaw.com Phone:908-722-5640

### Applicant Information

Application No	77435171	Publication date	03/03/2009
Opposition Filing Date	04/08/2009	Opposition Period Ends	05/02/2009
Applicant	Multi Media Exposure, Inc. 150 Morristown Road Plaza 202, Suite 110 Bernardsville, NJ 07924 UNITED STATES		

### Goods/Services Affected by Opposition

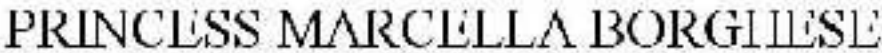
Class 003. All goods and services in the class are opposed, namely: Pet shampoo, conditioners, and body sprays
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### Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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### Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	3369371	Application Date	06/28/2006
Registration Date	01/15/2008	Foreign Priority Date	NONE
Word Mark	PRINCESS MARCELLA BORGHESE		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 003. First use: First Use: 1958/05/30 First Use In Commerce: 1958/05/30 Anti-aging cream; Anti-wrinkle creams; Bath gel; Beauty masks; Blush; Blush pencils; Body creams; Body emulsions; Body masks; Body scrub; Concealers; Cosmetic pads; Cosmetic preparations for skin renewal; Eye compresses for cosmetic purposes; Eye cream; Eye lotions; Eye shadow; Eyebrow colors; Eyebrow pencils; Eye make-up; Eye pencils; Face and body creams; Face and body lotions; Facial beauty masks; Facial masks; Facial scrubs; Foundations; Fragrances for personal use; Hair cleaning preparations; Hair conditioners; Hair nourishers; Hand cream; Lip balm; Lip gloss; Lip liner; Lip polisher; Lipstick; Loose face powder; Make-up; Make-up kits comprised of lipstick, lip gloss, cosmetic pencils, and non-medicated skin care preparations, non-medicated scalp treatment cream, and hair care preparations; Make-up powder; Make-up remover; Mascara; Nail care preparations; Nail enamel; Nail polish; Nail varnish for cosmetic purposes; Non-medicated body soaks; Non-medicated foot cream; Non-medicated lip care preparations; Non-medicated scalp treatment cream; Non-medicated skin care preparations; Perfume; Pressed face powder; Shower and bath foam; Shower gel; Skin abrasive preparations; Skin bronzing creams; Skin care products, namely, non-medicated skin serum; Skin cleansers; Skin cleansing lotion; Skin conditioners; Skin moisturizer; Skin texturizers; Skin toners; Sun screen; Toning lotion, for the face, body and hands; Under-eye enhancers; Wrinkle removing skin care preparations; Wrinkle resistant cream

U.S. Registration No.	1134398	Application Date	07/31/1978
Registration Date	05/06/1980	Foreign Priority Date	NONE
Word Mark	BORGHESE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 003. First use: First Use: 1958/04/30 First Use In Commerce: 1958/04/30 PERFUME, COLOGNE, AFTER SHAVE LOTION, DUSTING POWDER, SKIN CREAM AND LOTION, FACIAL MAKE-UP, EYESHADOW, SUNTAN OIL, NAIL ENAMEL, LIPSTICK, HAIR SHAMPOO AND CONDITIONER		

U.S. Registration No.	3387006	Application Date	02/21/2001
Registration Date	02/19/2008	Foreign Priority Date	NONE
Word Mark	BORGHESE		
Design Mark			

Description of Mark	NONE
Goods/Services	Class 003. First use: First Use: 1992/10/00 First Use In Commerce: 1992/10/00 Cosmetics and cleansers, namely, facial and skin cleansers, perfume, dusting powder, skin cream and lotion, facial make-up and blusher, eye shadow, suntan oil and sun screen preparations and skin care products, namely, after sun moisturizers; nail enamel, lipstick, hair shampoo and conditioner; non-medicated skin and body facial creams, lotions and moisturizers; non-medicated skin and body creams and lotions impregnated into a delivery device in the configuration of a glove intended to be worn for the purpose of delivering the creams and lotions; face creams, namely, liquid makeup; powder makeup; body and facial soaps, gels and masks; make-up remover, cleansers, astringents, mascara, foundation and restoratives

U.S. Registration No.	3506702	Application Date	02/21/2001
Registration Date	09/23/2008	Foreign Priority Date	NONE

Word Mark	BORGHESE
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Design Mark	
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Description of Mark	NONE
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Goods/Services	Class 035. First use: First Use: 1996/05/03 First Use In Commerce: 1996/05/03 Retail mail order services and computerized online ordering via a computer network in the field of consumer goods and services; and retail store services in the field of cosmetics, fragrances, skin care preparations, hair care preparations, soaps, nail care products, sunglasses, massage oils, essential oils, bath and shower oil and gels, deodorant, personal care and grooming items, travel cases, cleaning preparations, aroma therapies, atomizers, spray bottles, spa accessories, gift novelties
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Attachments	78919109#TMSN.jpeg ( 1 page )( bytes ) 78980468#TMSN.gif ( 1 page )( bytes ) Notice of Opposition.pdf ( 6 pages )(284830 bytes )
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## Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Moirra J. Selinka/
Name	Moirra J. Selinka
Date	04/08/2009

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

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BORGHESE TRADEMARKS, INC.,	Opposition No. _____
Opposer,	Mark: PRINCE LORENZO BORGHESE'S LA DOLCE VITA
v.	Serial No.: 77/435,171
MULTI MEDIA EXPOSURE, INC.,	Filed: March 30, 2008
Applicant.	

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**NOTICE OF OPPOSITION**  
**PURSUANT TO 15 U.S.C. SECTION 1063**

In the matter of trademark application Serial No. 77/435,171 filed by the Applicant, Multi Media Exposure, Inc., ("Applicant"), for PRINCE LORENZO BORGHESE'S LA DOLCE VITA, as a trademark for "pet shampoo, conditioners, and body sprays" ("Applicant's Goods"), published for opposition in the Official Gazette on March 3, 2009, Opposer, Borghese Trademarks, Inc., ("Opposer") a corporation organized and existing under the laws of the State of Delaware and located and doing business at 12<sup>th</sup> and Orange Street, One Commerce Center, Suite 713, Wilmington, Delaware, believes that it will be damaged by the registration of the alleged mark shown in Application Serial No. 77/435,171 and opposes the registration pursuant to 15 U.S.C. § 1063 (Trademark Act of 1946, Section 13).

As grounds of opposition, it is alleged that:

1. Opposer is the owner of the marks PRINCESS MARCELLA BORGHESE, BORGHESE, and variations thereof ("Opposer's Marks"), including United States registrations,

and pending applications as a trademark and trade name as applied to a wide range of goods

directed to retail consumers. Examples of Opposer's Marks are as follows:

Trademark	Appl. No./Reg. No.	Class	Goods
PRINCESS MARCELLA BORGHESE	3,369,371	3	Anti-aging cream; Anti-wrinkle creams; Bath gel; Beauty masks; Blush; Blush pencils; Body creams; Body emulsions; Body masks; Body scrub; Concealers; Cosmetic pads; Cosmetic preparations for skin renewal; Eye compresses for cosmetic purposes; Eye cream; Eye lotions; Eye shadow; Eyebrow colors; Eyebrow pencils; Eye make-up; Eye pencils; Face and body creams; Face and body lotions; Facial beauty masks; Facial masks; Facial scrubs; Foundations; Fragrances for personal use; Hair cleaning preparations; Hair conditioners; Hair nourishers; Hand cream; Lip balm; Lip gloss; Lip liner; Lip polisher; Lipstick; Loose face powder; Make-up; Make-up kits comprised of lipstick, lip gloss, cosmetic pencils, and non-medicated skin care preparations, non-medicated scalp treatment cream, and hair care preparations; Make-up powder; Make-up remover; Mascara; Nail care preparations; Nail enamel; Nail polish; Nail varnish for cosmetic purposes; Non-medicated body soaks; Non-medicated foot cream; Non-medicated lip care preparations; Non-medicated scalp treatment cream; Non-medicated skin care preparations; Perfume; Pressed face powder; Shower and bath foam; Shower gel; Skin abrasive preparations; Skin bronzing creams; Skin care products, namely, non-medicated skin serum; Skin cleansers; Skin cleansing lotion; Skin conditioners; Skin moisturizer; Skin texturizers; Skin toners; Sun screen; Toning lotion, for the face, body and hands; Under-eye enhancers; Wrinkle removing skin care preparations; Wrinkle resistant cream
BORGHESE*	1,134,398	3	PERFUME, COLOGNE, AFTER SHAVE LOTION, DUSTING POWDER, SKIN CREAM AND LOTION, FACIAL MAKE-UP, EYESHADOW, SUNTAN OIL, NAIL ENAMEL, LIPSTICK, HAIR SHAMPOO AND CONDITIONER
BORGHESE	3,387,006	3	Cosmetics and cleansers, namely, facial and skin cleansers, perfume, dusting powder, skin cream and lotion, facial make-up and blusher, eye shadow, suntan oil and sun screen preparations and skin care products, namely, after sun moisturizers; nail enamel, lipstick, hair shampoo and conditioner; non-medicated skin and body facial creams, lotions and moisturizers; non-medicated skin and body creams and lotions impregnated into a delivery device in the configuration of a glove intended to be worn for the purpose of delivering the creams and lotions; face creams, namely, liquid makeup; powder makeup; body and facial soaps, gels and masks; make-up remover, cleansers, astringents, mascara, foundation and restoratives

BORGHESE	3,506,702	35	Retail mail order services and computerized online ordering via a computer network in the field of consumer goods and services; and retail store services in the field of cosmetics, fragrances, skin care preparations, hair care preparations, soaps, nail care products, sunglasses, massage oils, essential oils, bath and shower oil and gels, deodorant, personal care and grooming items, travel cases, cleaning preparations, aroma therapies, atomizers, spray bottles, spa accessories, gift novelties
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\*denotes incontestable status

2. Opposer is now and for many years has been trading as and known by Opposer's Marks, identifying Opposer as the source of a variety of goods, particularly personal bath, spa, and beauty care products the same being substantially identical to and generally related to the Applicant's Goods, intended to be offered under its alleged mark PRINCE LORENZO BORGHESE'S LA DOLCE VITA.

3. Opposer is now and has been, for many years prior to any date which may be claimed by Applicant, engaged in the use of Opposer's Marks for fragrances, hair cleaning preparations, hair conditioners, perfume, cologne, hair shampoo, hair care preparations as well as numerous other beauty care and bath products, make up and cosmetics.

4. Opposer is now and has been, for many years prior to any date which may be claimed by Applicant, engaged in the sale of fragrances, hair cleaning preparations, hair conditioners, perfume, cologne, hair shampoo, hair care preparations as well as numerous other beauty care and bath products, make up and cosmetics under Opposer's Marks.

5. Since long prior to any date which may be claimed by Applicant, Opposer on its own behalf has been, and is now engaged in the sale of the goods identified in paragraphs 3 and 4 hereinabove under the Opposer's Marks in interstate commerce.

6. Applicant filed a Section 1(b) Intent to Use application under Serial No. 77/435,171 for Applicant's Mark for use in connection with goods namely, pet shampoo, conditioners, and body sprays in Int'l. Class 3, filed on March 30, 2008.

7. Opposer, with a date of first use in commerce in 1958, initiated use of Opposer's Marks, PRINCESS MARCELLA BORGHESE and BORGHESE, affixed to a wide variety of cosmetic goods, and continuously used this mark in commerce to the date hereof.

8. The use by Opposer of Opposer's Marks, for the Opposer's Goods alleged herein, is long prior to any date which may be lawfully claimed by Applicant, and Opposer has priority.

9. Upon information and belief, Applicant intends to distribute and sell its goods through such channels of trade so as to direct its respective goods to the same ultimate consumer as Opposer, because goods of the type of Opposer's are often used on pets.

10. Opposer's Marks and Applicant's PRINCE LORENZO BORGHESE'S LA DOLCE VITA mark are confusingly similar when applied to the goods of the parties.

11. The goods of Applicant and Opposer are in part substantially related and in part generally related, and Applicant's intended use of PRINCE LORENZO BORGHESE'S LA DOLCE VITA in connection with its goods is without the consent or permission of Opposer.

12. Since Opposer owns the Opposer's Marks by virtue of prior use, mistake or deception as to the source of origin of the goods will arise and will injure and damage the Opposer and its goodwill.

13. Applicant's Goods are related to the goods offered under Opposer's Marks and, therefore, registration of Applicant's Mark will cause the relevant purchasing public to erroneously assume and thus be confused, misled, or deceived, that Applicant's goods are made

by, licensed by, controlled by, sponsored by, or in some way connected, related or associated with Opposer, all to Opposer's irreparable damage.

14. Applicant's Goods are a natural extension of the product line offered under Opposer's Marks and, therefore, registration of Applicant's Mark will cause the relevant purchasing public to erroneously assume and thus be confused, misled, or deceived, that Applicant's goods are made by, licensed by, controlled by, sponsored by, or in some way connected, related or associated with Opposer, all to Opposer's irreparable damage.

15. The registration of the mark PRINCE LORENZO BORGHESE'S LA DOLCE VITA to Applicant will cause the relevant purchasing public to erroneously assume and thus be confused, misled, or deceived, that Applicant's goods are made by, licensed by, controlled by, sponsored by, or in some way connected, related or associated with Opposer, all to Opposer's irreparable damage.

16. As a result of Opposer's long use, extensive advertising and promotion, and successful sales for many years, Opposer's Marks have become well known and distinctive, long prior to any date which may be claimed by Applicant.


17. Opposer believes that it will be damaged by registration and/or use of the mark applied for by Applicant.

**WHEREFORE**, Opposer prays that the application for registration of PRINCE LORENZO BORGHESE'S LA DOLCE VITA, Serial No. 77/435,171, filed on March 30, 2008, be denied and that this Opposition be sustained.



Respectfully submitted for Opposer,

BORGHESE TRADEMARKS, INC.

By: 


Stephen L. Baker  
Moirra J. Selinka  
BAKER & RANNELLS, P.A.  
575 Route 28, Suite 102  
Raritan, NJ 08869  
(908) 722-5640

Dated: April 8, 2009

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of Opposer's Notice of Opposition, in re: Borghese Trademarks, Inc. v. Multi Media Exposure, Inc. was forwarded by first class postage prepaid mail by depositing same with the U.S. Postal Service on this 8th day of April, 2009, to the attorney for Applicant at the following address:

Mark S. Kaufman, Esq.  
Kaufman & Kahn LLP  
747 Third Avenue, Fl. 32  
New York, NY 10017

  
Moirra J. Selinka